

Appl. No. 09/342,719
Docket No. 7590Q
Amdt. dated August 11, 2006
Reply to Office Action mailed on May 18, 2006
Customer No. 27752

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REMARKS

Claim Status

Claims 28-32, 34-37, 40-44, 47, 48, and 58-60 are pending in the present application. No claims are amended herein, and no additional claims fee is believed to be due. The enclosed claim listing is provided for the Examiner's convenience.

Rejection Under 35 U.S.C. § 103(a) Over McIver et al. in View of Al-Sabah

Claims 28-32, 34-37, 40-44, 47, 48, and 58-60 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,066,673 issued to McIver et al., hereinafter "McIver," in view of U.S. Patent No. 5,868,723 issued to Al-Sabah. This rejection is traversed, because McIver is not available as prior art against the present application under 35 U.S.C. § 103(c).

As asserted in the Office action, McIver qualifies as prior art under 35 U.S.C. § 102(e) based on the effective filing dates of McIver and the claimed invention of the present application. In addition, the present application and McIver were, at the time the claimed invention was made, owned by, or subject to an obligation of assignment to, The Procter & Gamble Company, as evidenced by the assignments recorded at reel/frame numbers 010200/0013 and 010864/0871. Therefore, since the present application remains pending after December 10, 2004 (the effective date of the CREATE Act, *See* MPEP § 706.02(I)(1)(I)), it is submitted that McIver is not available as a reference under 35 U.S.C. § 103(c).

Therefore, it is believed that claims 28-32, 34-37, 40-44, 47, 48, and 58-60 are in form for allowance and such indication is respectfully requested.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejection under 35 U.S.C. § 103(a). Early and favorable action in the case is respectfully requested.

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Respectfully submitted,

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